



# e-law

*UKELA Making the law work for a better environment*

## Editorial

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[www.ukela.org](http://www.ukela.org)



**By Peter Kellett, UKELA Chair**

This is an interim edition of e-law as the editor, Cate Davey, has been unwell. We wish her a speedy recovery and invite contributions to the next e-law, which will be out in October, by October 5th please. Your articles, thoughts and events information are always very welcome and reach 1200 UKELA contacts with an interest in environmental law. Please send them direct to Cate, [catherine.davey@stevens-bolton.co.uk](mailto:catherine.davey@stevens-bolton.co.uk).

At the end of September UKELA is holding a weekend of lively discussion about Wild Law. This is the fourth year of UKELA's involvement in facilitating a debate on whether a different approach to jurisprudence, placing the earth at the centre of legal thinking, might better protect the environment. Two UKELA Council members, Begonia Filgueira and Ian Mason, have been working hard to gather examples from around the globe of 'Wild Laws' in action. Professor Lynda Warren is supervising the research and an initial draft of the research will be presented at the workshop. UKELA is also very grateful to the students and advisers from different jurisdictions who have helped with this project. I'm sorry if you wanted to attend the Workshop as it is now fully booked. However UKELA does plan more Wild Law activities in the coming months and will keep you posted.

The working parties and regional groups have been busy planning meetings for the autumn – details below. The London meeting on September 29th promises an excellent panel of speakers on responses to climate change. Finally, we have just settled the date for the annual student careers and social evening – December 9th. You can read more on the autumn events' programme in this edition of e-law and we hope to see you at one (or more) of them.

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## The new Northern Ireland Environment Agency – evolution not revolution

By Andrew Ryan, an Associate at Carson McDowell solicitors specialising in environment law and the convenor for the UKELA Northern Ireland Working Party.



Over the past few years, many organisations and individuals have made repeated calls for the creation of an independent Environmental Protection Agency in Northern Ireland. UKELA took an active role in promoting the formation of such an Agency and the consultations that were undertaken in support of the proposal. However, prospects of a fully independent environmental regulator for Northern Ireland were, it seems, finally put to rest in May of this year. Northern Ireland is now the only part of both the UK and the Republic of Ireland that does not have an independent environmental regulator.

In her final statement to the Assembly as Environment Minister, the Democratic Unionist Party's ("DUP") Arlene Foster announced that environmental protection was to remain a function of the Northern Ireland Department of the Environment, albeit through a re-branded and revitalised Environment and Heritage Service ("EHS"). Many, both in industry, NGOs and the wider community, along with UKELA, were disappointed by this decision. An independent "Environment Protection Agency" is now no longer a realistic prospect for the foreseeable future, and new Environment Minister, the DUP's Sammy Wilson is unlikely to change course. Given the above, what improvements can realistically be expected within the Northern Ireland Environment Agency?

As with the EHS before it, the NI Environment Agency is an executive agency of the Department of the Environment. A significant criticism of this arrangement is that the lack of separation between Ministers and the environment regulator compromises its ability to protect the environment. Whether a perceived or actual risk, this problem will persist. However, the Minister did at least appear to take on board concerns about the EHS at an operational level and perhaps the changes proposed will lead to improved regulation and enforcement.

"Better regulation" was the main focus of the Minister's proposals for the new NI Environment Agency. An Agency document, "Better Regulation for a Better Environment" elaborates on this theme. Produced following extensive consultation with business and community stakeholders, the document proposes a number of changes, which, if implemented, would be considered positive steps. These include streamlined permitting procedures and a more risk-based approach to compliance assessment, much in the same vein as the aspirations of the Environment Agency in England and Wales. On paper at least, these are encouraging proposals, since over-regulation and lengthy application times have been long-standing sources of complaint from NI industry.

Plans to strengthen enforcement are also to be welcomed. Legitimate businesses, particularly in the waste and construction sectors, have for many years complained of over-regulation in the face of anti-competitive behaviour from illegal operators. It is a sad fact of NI life that opportunities for illegal dumping of waste – on both sides of the border – remain abundant. A new Agency-wide Environmental Crime Unit will be responsible for policing the environment and a revised Enforcement Policy is intended to clearly set out what businesses can expect. The NI Environment Agency also intends to strengthen its focus against serious and persistent offenders and will utilise increased powers to recover assets gained through illegal activity. Proposals have also been made for a new system of "administrative penalties" for lesser offences, such as fixed fines. As with similar proposals in England and Wales, such penalties would decriminalise relatively minor breaches but with financial penalties that aim to incentivise compliance.

Efforts are also to be made to make the new NI Environment Agency more accountable and transparent. The Board of the Agency now includes two independent members and all Board meetings will be open to the public. A "Better Regulation Board" consisting of leaders from various business sectors has also been formed. These proposals will go some way towards improving the perception of the Agency, but, in UKELA's and many others' view, it will never be thought of as truly independent from the political pressures of Stormont.

Tying in with the Environment Minister's plans for "better regulation" are proposals by the Northern Ireland Law Commission for reform of environment law. In a consultation document released in August 2008, the NI Law Commission has identified a number of issues within environment law that could be subject to more detailed analysis and subsequent detailed proposals for reform. These include consolidation and simplification of existing NI environment legislation; rationalisation of enforcement powers and appeals rights; use of civil remedies; and, improvements to the permitting regime. UKELA welcomes the proposals

## News

and intends to contribute to this consultation through its Northern Ireland Working Party.

Whilst the new arrangements for the NI Environment Agency fall short of the best model for effective regulation and environmental protection, UKELA is committed to working with the new set up to ensure that the best environmental outcomes are delivered. The key test is whether the NI Environment Agency and Department of the Environment can deliver better environmental protection, which will need adequate resourcing and getting the right skills in place. UKELA will be seeking discussions with the new regulators. UKELA is also jointly sponsoring an event on 18th November 2008 along with the CBI in which senior figures representing the new arrangements will set out their proposals and provide a forum for constructive discussion on the many issues raised.

## Young UKELA

The first meeting of Young UKELA on the theme of 'New Challenges and Practical Responses' will take place on Monday 10th November at 5:30pm for 6pm at the offices of DLA Piper UK LLP at 3 Noble Street, London, EC2V 7EE. Speakers are: Andy Fisher, Head of the Wildlife Crime Unit, Metropolitan Police and Stephen Tromans, 39 Essex Street. 1.5 CPD hours (to be confirmed). A drinks reception with an excellent opportunity for networking will be held after the talks. The Young UKELA Group is aimed in particular at practitioners up to 7 years post-qualification, but all are welcome. £10 for UKELA members, £20 for non-members, students free.

To book please email [gabrielle.tipple@dlapiper.com](mailto:gabrielle.tipple@dlapiper.com) and send a cheque payable to the UK Environmental Law Association to 3 Noble Street, London, EC2V 7EE.

## Wild Law

The Wild Law Workshop at the end of September is now fully booked. Delegates are attending from all over the world including the USA, Colombia, South Africa, Ethiopia and the UK. The workshop will be discussing Wild Law in action – can we identify it? Does it work better to protect the environment? Where can we find good examples? UKELA has been working with the Gaia Foundation on an international research project, the first draft of which will be launched for discussion at the workshop.

If you missed out you may be interested in attending the London meeting featuring Andrew Kimbrell, one of the speakers at the Wild Law workshop (details below). Or look out for news about the formation of a new UKELA Wild Law Group to stimulate discussion and activities on earth jurisprudence. We hope to be making an announcement about this after the workshop.



## UKELA events

**Planning Bill Workshop** – the Planning and Sustainable Development Working Party invites all UKELA members to a workshop on the Planning Bill. Discussion will focus on: “Major infrastructure projects under the Planning Bill – will it deliver a fairer, faster system?” This will take place on Wednesday September 17th at Beachcrofts, 100 Fetter Lane, London, EC4A 1BN, in association with the Planning and Environment Bar Association, the Law Society’s Planning and Environment Committee and the Royal Institution for Chartered Surveyors. Reform of the planning system means significant changes across many sectors and the Working Party has recently submitted its concerns about some aspects of the Bill to government. The Bill will be debated by the House of Lords on October 6th so this is an opportunity to join in discussion on this hot topic. Chair: Lord Justice Carnwath, UKELA’s President.

More details and how to book information attached.

**London meeting: Responses to Climate Change** – Monday September 29th at Herbert Smith, London.

The speakers will look at the unique global challenges presented by climate change and the strategies that can be employed to counter carbon emissions.

More details and how to book information attached.

**Garner Lecture** – 18 November at Freshfields in London

Richard Hawkins will be delivering this year’s Garner lecture. Put the date in your diaries and watch out for booking details coming soon.

**Northern Ireland UKELA/CBI joint meeting on the new regulation regime**

In Belfast, also on 18 November 2008.

UKELA is jointly sponsoring an event in which senior figures representing the new arrangements will set out their proposals and provide a forum for constructive discussion on the many issues raised. More details available soon.

**Student Careers Advice and Social**

The annual student get together with professionals will be held on Tuesday December 9th at Landmark Chambers, 180 Fleet Street London, EC4A 2HG from 6 – 8.30pm. This is an informal evening where students can sit and chat to professionals (barrister, solicitor, NGO, government lawyer, environmental consultant, regulator) about jobs in environmental law. It’s also a chance to meet other students with a similar interest and we have had very positive feedback from those taking part in previous events

Refreshments provided and places are free, but must be booked.

If you want to book please contact Alison Boyd, [alisonboyd.ukela@ntlbusiness.com](mailto:alisonboyd.ukela@ntlbusiness.com) with your name, place of study, what you are studying and what year you are in, phone number/s.

## Regional events

**North East Regional Meeting** – Wednesday 10 September at Pinsent Masons, Leeds

This early evening seminar will discuss Soil Guideline Values and the operation of the Contaminated Land regime in the light of new guidance. For more details and to book your place go to [www.ukela.org](http://www.ukela.org) and click on the North East regional page.

**West Midlands Regional Meeting** – Thursday 18 September at Pinsent Masons, Birmingham.

This early evening seminar will discuss Soil Guideline Values and the operation of the Contaminated Land regime in the light of new guidance. For more details and to book your place go to [www.ukela.org](http://www.ukela.org) and click on the West Midlands regional page.

**East Anglia Regional Meeting** – Wednesday 23 October at Taylor Vinters, Cambridge

This early evening seminar will discuss Food Law. For more details and to book your place go to [www.ukela.org](http://www.ukela.org) and click on the East Anglia regional page.

**Scotland, South West/Wales and North West regions** – meetings are currently being finalised in all these regions for the Autumn/Winter and details will be published shortly on the website.

**Student opportunities - help needed update**

Thanks to Andy Stone who answered our call for help with the final stage of constructing the e-library on environmental law. "The Law and Your Environment" aims to provide information on environmental law to the person in the street about their rights and responsibilities. The website will be launched early in 2009.

Andy has 14 years' commercial experience mainly in IT strategic and project management. He has just started a graduate diploma in law with a view to becoming a barrister. He has a keen interest in environmental law. Andy will be helping Tamara Egede at Cardiff University, who has been preparing much of the content of the new website.

## Special offers, discounts and trials

### CLT Legal Training - Environmental Law in Practice Conference

CLT Legal Training - Environmental Law in Practice Conference

In association with UKELA – 22nd September. Discount for UKELA members and 2 for 1 offer. Chair: Professor Kenneth Ross, Brodies LLP

6 hours CPD

#### **BOOK ONE PLACE GET SECOND FREE FOR A COLLEAGUE**

- Contaminated land - drafting tips
- Historical land uses - what lies beneath?
- Wildlife, habitats and development - the practicalities
- Nuisance and the environment
- EU waste and its impact on Scots law
- Energy Performance Certificates & green leases

UKELA member discounted rate of £295 + VAT

As a special late offer, when you book one place on this conference, you can reserve a FREE second place for a colleague. To take up this offer call 0141 225 6700 or email [scotenquiries@centlaw.com](mailto:scotenquiries@centlaw.com) and quote "Environment 2 FOR 1 offer".

<http://www.clt-scotland.co.uk/CourseDisplay/3031128>

The inaugural **NATIONAL ENVIRONMENTAL CRIME CONFERENCE** (organised by UCL) will be held on October 7th at the British Library, London, supported by the Environment Agency and the Home Office.

This conference will be a first step in the UK to reduce the threat that eco-crime poses to national and local communities. It will bring together academics, practitioners, industry, law enforcement and policy-makers to explore a range of current and future eco-crime problems such as wildlife crime, industrial pollution and illegal waste disposal. We will better define the problem, and begin to explore remedial and preventative actions, particularly by bringing together an interdisciplinary effort using crime science, environmental engineering and systems engineering approaches.

Key Sessions include:

Defining the field

- The Policing challenge
- Technological solutions
- Environmental Justice
- Emerging and future eco-crimes

Early bird rate: £49

Special rate for students: £25

(Rate includes full-day conference from 9.30am-4.30pm and includes lunch)

PROGRAMME & REGISTRATION at:

<http://www.cscs.ucl.ac.uk/events-1/necc/national-environmental-crime-conference/>

### **Environmental Law: the new Regulatory Regime**

**Monday 17th November, central London**

**20% discount for UKELA members**

One day conference organised by Lexis Nexis on the key changes including Environmental Permitting, Climate Change, REACH and the Environmental Damage Regulations.

Chaired by Ross Fairley of Burges Salmon, speakers include Prof Richard Macrory, Lord Daniel Brennan QC, Valerie Fogleman and Richard Wald.

To view the full programme visit: <http://www.conferencesandtraining.com/environmental>

To claim the 20% discount email [conferences@lexisnexis.co.uk](mailto:conferences@lexisnexis.co.uk) or call 020 7347 5373 and quote UKELA to claim the discount. (The discount is valid on the standard price for private sector, and also on the standard price for public sector).

### **Green Investing 2008- Opportunities and Risks**

**4th December 2008, Merchant Taylors' Hall, London**

**10% discount for UKELA members**

[Green Investing 2008](#) builds on the success of last year Climate Change Week and addresses the main issues affecting investors involved in the renewable energy sector.

This **Financial News** event will be exploring investment opportunities arising from latest developments in clean technology. We will examine risk and return profiles for the renewable energy sectors as well as recent policies and tax incentives affecting the industry. On one hand we will be looking at issues affecting private equity and venture capital companies, on the other we will explore investment consideration of institutional and private investors.

#### **Why you should not miss this conference:**

- Explore the latest world trends in Green and Carbon investments
- Find out how to capitalise on Climate Change as an investment opportunity
- Learn how to build investment portfolio focused on Climate Change
- Discover how to invest in Green and Carbon funds
- Assess latest trends in the Renewable Energy Finance and Carbon Trading

To find out more & to book your place(s) click [www.efinancialnewsevents.com/conference/green08/](http://www.efinancialnewsevents.com/conference/green08/). Alternatively email **Cordelia Ekeocha** at [cekeocha@efinancialnews.com](mailto:cekeocha@efinancialnews.com) or call + 44 (0) 20 7309 7705. To claim your **10% discount**, please remember to quote **GIO8.UKELA** in all correspondence.

### **Carbon Emissions Trading Conference, 28-29 January 2008, Cologne, Germany**

C5's Inaugural Carbon Emission Trading Conference is designed for those already familiar with the fundamentals of carbon emission trading who want to maintain their competitive edge in the market. It is an essential one-stop shop, providing you with the tools you need to stay one step ahead of the game.

Political and public pressure on carbon producing companies has intensified and carbon emission allowances are being lowered at a significant rate. The industry is scrambling to ensure that it is complying with the new regulations and not exceeding emission allowances, putting pressure on law firms to deal with the significant increase of carbon emission trading and climate change litigation issues.

Now, more than ever, it is imperative to bring together industry participants to address and discuss the myriad of regulations and compliance issues that are impacting the market.

Speakers:

- Anthony Hopley, Partner, **Norton Rose**
- Henry Derwent, President & CEO, **International Emissions Trading Association (IETA)**
- John Deacon, Partner, **Hunton & Williams**

## Special offers, discounts and trials

- Manny Singh, General Manager, EDC Division of CEF, **Clean Energy Fund of SA**
- Karen Capoor, Head, Sustainable Development, **World Bank**

For information or registration, visit [www.C5-online.com/carbonemissions](http://www.C5-online.com/carbonemissions) or email [k.persson@C5-online.com](mailto:k.persson@C5-online.com).

As a member of UKELA, you are entitled to 10% discount. To claim the discounted rate, please ensure you quote UKELA when contacting C5.

### PLC Environment – free trial for UKELA members

PLC Environment is an online environmental law know-how service for lawyers in the private and public sectors, as well as other commercial practitioners such as environmental consultants and EHS directors.

The service includes:

- clear and concise summaries of the law on a wide range of environmental topics
- standard documents and drafting notes
- e-mail alerts on key UK and EU environmental developments
- a guide to environmental law in other jurisdictions, including details of leading environmental lawyers and law firms in those jurisdictions

PLC Environment is run by a team of specialist environmental lawyers with a wide range of experience in both the private and public sectors (including Herbert Smith, Freshfields, Veale Wasbrough and Defra).

Why not see for yourself?

To view an example e-mail alert, see ‘Government consults on ambitious target for renewable energy’ [www.practicallaw.com/8-382-2770](http://www.practicallaw.com/8-382-2770).

To view an example practice note, see ‘Making green claims in advertising’ [www.practicallaw.com/7-382-2493](http://www.practicallaw.com/7-382-2493).

For more information or to arrange a free trial:

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W: [www.practicallaw.com](http://www.practicallaw.com)

**Quote reference:** UKELA2

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Environmental Law Review is the premier journal in Vathek Publishing’s eclectic stable of journals. We are proud to be able to say that from its niche journal collection **over 50 articles** are going forward to the RAE panel. Vathek Publishing is particularly pleased since Environmental Law Review publishes opinions, legislation, case notes, an Update and book reviews – none of which are RAE eligible.

To celebrate this achievement we are offering **FREE ONLINE ACCESS** to all environmental law articles going back to 2003. Simply register today at [www.vathek.com/free](http://www.vathek.com/free) and celebrate with us!

As free online access is only available until the end of September – why not sign up to Vathek Publishing’s Table of Contents Alerting service or RSS feed? You will then be informed of what is in forthcoming issues of this key journal. To sign up – simply click <http://www.vathek.com/freereg1207.php> and select either ‘Add to my alerts’ or ‘RSS’.



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### E - LAW

The editorial team wants articles, news and views from you for the next edition due to go out in September 2008.

All contributions should be dispatched to the e-law editor Catherine Davey as soon as possible by email at:

catherine.davey@stevens-bolton.co.uk by 5th October 2008

Letters to the editor will be published, space permitting

**Please send as Word document.**

E-law assistant editors: Richard Kimblin and James Maurici

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